



[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE-2014-BT-TP-0054]

RIN 1904-AD72

Energy Conservation Program: Test Procedure for Walk-in Coolers and Walk-in Freezers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; further delay of effective date.

SUMMARY: This document further temporarily postpones the effective date of a recently published final rule establishing test procedures for certain walk-in cooler and freezer components.

DATES: As of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the effective date of the rule amending 10 CFR parts 429 and 431 published in the Federal Register at 81 FR 95758 on December 28, 2016, delayed until March 21, 2017 at 82 FR 8805 on January 31, 2017, is further delayed until June 26, 2017. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of June 26, 2017.

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SUPPLEMENTARY INFORMATION: On January 31, 2017, the United States Department of Energy (“DOE”) temporarily postponed the effective date of its final rule amending the test procedure for certain walk-in cooler and walk-in freezer (collectively, “walk-in” or “WICF”) components published in the Federal Register on December 28, 2016. See 82 FR 8805. The January 31 rule temporarily postponed the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date was necessary to give the newly appointed Secretary of Energy (“Secretary”) the opportunity for further review and consideration of new regulations. However, the Secretary was not confirmed and did not begin work in his position until March 3, 2017. As a result, the Secretary was unable to accomplish the review and consideration during the original postponement of the effective date of the regulation amending the test procedure for certain walk-in components. Therefore, DOE hereby further temporarily postpones the effective date of that test procedure regulation to allow the Secretary the opportunity to accomplish this task. The effective date of this test procedure is postponed until June 26, 2017, the date on which the statute requires compliance with that procedure. See 42 U.S.C. 6314(d) (requiring use of applicable test procedure starting 180 days after being prescribed) and 81 FR 95758 (requiring use of the prescribed procedure starting on June 26, 2017).

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE’s implementation of this action without opportunity for public comment, effective immediately upon publication in the Federal Register, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good

cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing the effective date of this regulation pursuant to the previously-noted need for review by the Secretary and the statutory compliance date is unaffected by this action. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. It is also impracticable given the timing of the Secretary's confirmation and the March 21 effective date established by the prior temporary postponement. For these same reasons DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, D.C., on March 15, 2017.

John T. Lucas,
Acting General Counsel.

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